



House of Representatives

File No. 723

General Assembly

February Session, 2016

(Reprint of File No. 243)

Substitute House Bill No. 5433
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 25, 2016

AN ACT MAKING MINOR AND TECHNICAL CHANGES TO DEPARTMENT OF CONSUMER PROTECTION STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-324a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2016*):

3 The commission shall establish and maintain a Real Estate Guaranty
4 Fund from which, subject to the provisions of sections 20-324a to 20-
5 324j, inclusive, any person aggrieved by any action of a real estate
6 broker or real estate salesperson, duly licensed in this state under
7 section 20-312, by reason of the embezzlement of money or property,
8 or money or property unlawfully obtained from any person by false
9 pretenses, artifice [, trickery] or forgery or by reason of any fraud,
10 misrepresentation or deceit by or on the part of any such real estate
11 broker or real estate salesperson or the unlicensed employee of any
12 such real estate broker, may recover, upon approval by the
13 commission of an application brought pursuant to the provisions of
14 section 20-324e, as amended by this act, compensation in an amount

15 not exceeding in the aggregate the sum of twenty-five thousand
16 dollars in connection with any one real estate transaction or claim,
17 regardless of the number of persons aggrieved or parcels of real estate
18 involved in such real estate transaction or claim.

19 Sec. 2. Subsection (b) of section 20-324e of the general statutes is
20 repealed and the following is substituted in lieu thereof (*Effective July*
21 *1, 2016*):

22 (b) When any aggrieved person recovers a valid judgment in the
23 Superior Court against any real estate broker or real estate salesperson
24 or the unlicensed employee of any such real estate broker for loss or
25 damages sustained by reason of the embezzlement of money or
26 property, or money or property unlawfully obtained from any person
27 by false pretenses, artifice [, trickery] or forgery or by reason of any
28 fraud, misrepresentation or deceit by or on the part of such real estate
29 broker or salesperson or the unlicensed employee of any such real
30 estate broker, such aggrieved person may upon the final determination
31 of, or expiration of time for appeal in connection with, any judgment,
32 apply to the commission for an order directing payment out of the Real
33 Estate Guaranty Fund of the amount unpaid upon the judgment,
34 subject to the limitations stated in section 20-324a, as amended by this
35 act, and the limitations specified in this section. [The license of any
36 such broker or salesperson shall be automatically revoked upon the
37 entry of such judgment.]

38 Sec. 3. Subsection (b) of section 30-33a of the general statutes is
39 repealed and the following is substituted in lieu thereof (*Effective July*
40 *1, 2016*):

41 (b) A coliseum concession permit shall allow the retail sale and
42 consumption of beer, in paper, plastic or aluminum containers only, at
43 sporting events within the arena and at concession stands within the
44 arena or outside the arena but directly connected to the arena or in
45 areas adjacent to the hallways for public passage around the arena.
46 The coliseum concession permit shall allow the retail sale and

47 consumption of beer, in paper, plastic or aluminum containers only, at
48 such concession stands only during (1) a trade show for which a ticket
49 is required for admission; (2) an exhibition for which a ticket is
50 required for admission; or (3) a convention. No sales of beer shall occur
51 at a coliseum concession stand within one hour of the scheduled end of
52 a function at such coliseum. The annual fee for a coliseum concession
53 permit shall be one thousand two hundred fifty dollars.

54 Sec. 4. Subsection (b) of section 20-600 of the general statutes is
55 repealed and the following is substituted in lieu thereof (*Effective July*
56 *1, 2016*):

57 (b) The provisions of this section shall not apply to a pharmacist
58 who applies for the first [renewal] year of a license to practice
59 pharmacy.

60 Sec. 5. Section 21a-79a of the general statutes is repealed and the
61 following is substituted in lieu thereof (*Effective July 1, 2016*):

62 (a) Notwithstanding the provisions of section 21a-79 and any
63 regulations adopted under said section, the Commissioner of
64 Consumer Protection may, within available appropriations, establish a
65 [pilot] program for the test audit of alternative electronic retail pricing
66 systems that maintain and display the item and unit price of consumer
67 commodities, as defined in subsection (a) of section 21a-79. The
68 commissioner shall select one or more retailers to participate in any
69 such [pilot] program. [in accordance with the following requirements:]
70 A retailer participating in the [pilot] program shall conduct business
71 from one or more stores in this state. [on October 1, 2001.] The retailer
72 shall submit to the commissioner a written request to participate in the
73 [pilot] program and pay all costs associated with a test audit under
74 such [pilot] program. The retailer [or retailers] shall implement a
75 system to be test audited that, at a minimum, (1) maintains the
76 retailer's current item prices and unit prices for each product in an
77 electronic database, (2) prints shelf tags that meet all applicable
78 requirements for item pricing and unit pricing, [in effect on October 1,

79 2001,] and (3) operates in such a way that (A) price decreases are
80 immediately transmitted directly to the point of sale, and (B) price
81 increases are transmitted to the point of sale only after such shelf tags
82 are posted and such posting has been verified in the electronic
83 database.

84 (b) The commissioner may designate a private auditing organization
85 to conduct any such test audit and shall charge the cost of such test
86 audit to the selected retailer or retailers. No such test audit shall be
87 conducted for a period exceeding twelve months. During the test
88 audit, such store shall be exempt from the provisions of subdivision (1)
89 of subsection (b) of section 21a-79 and any applicable regulations
90 adopted under said section.

91 [(c) The commissioner shall report the results of each test audit
92 conducted under any such pilot program and any recommendations to
93 the joint standing committee of the General Assembly having
94 cognizance of matters relating to consumer protection not later than
95 three months after the completion of such test audit. Such report shall
96 include a copy of any audit report prepared by the commissioner or
97 any such private auditing organization.]

98 Sec. 6. Subsection (f) of section 30-91 of the 2016 supplement to the
99 general statutes, as amended by section 4 of substitute house bill 5324
100 of the current session, as amended by House Amendment Schedule
101 "B", is repealed and the following is substituted in lieu thereof (*Effective*
102 *from passage*):

103 (f) The retail sale of wine and the tasting of free samples of wine by
104 visitors and prospective retail customers of a permittee holding a
105 manufacturer permit for a farm winery on the premises of such
106 permittee shall be unlawful on Sunday before [eleven] ten o'clock a.m.
107 and after ten o'clock p.m. and on any other day before eight o'clock
108 a.m. and after ten o'clock p.m. Any town may, by vote of a town
109 meeting or by ordinance, reduce the number of hours during which
110 sales and the tasting of free samples of wine under this subsection shall

111 be permissible.

112 Sec. 7. Sections 21a-13 and 53-317 of the general statutes are
113 repealed. (*Effective July 1, 2016*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	20-324a
Sec. 2	<i>July 1, 2016</i>	20-324e(b)
Sec. 3	<i>July 1, 2016</i>	30-33a(b)
Sec. 4	<i>July 1, 2016</i>	20-600(b)
Sec. 5	<i>July 1, 2016</i>	21a-79a
Sec. 6	<i>from passage</i>	30-91(f)
Sec. 7	<i>July 1, 2016</i>	Repealer section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Resources of the General Fund	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a potential minimal revenue gain in sales tax by modifying the hours that manufacturer permittees for a farm winery may sell retail wine.

Any potential impact to the sales tax would impact the General Fund as well as the Municipal Revenue Sharing Account and the Special Transportation Fund.¹

The bill also makes technical changes that do not result in a fiscal impact.

House "A" alters the original bill by modifying the hours that manufacturer permittees for a farm winery may sell retail wine and results in the revenue impact indicated above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ PA 15-244, as amended by PA 15-5 JSS and PA 15-1 DSS, requires a monthly transfer of a portion of the sales tax generated into the Municipal Revenue Sharing Account and the Special Transportation Fund. The general sales and use tax rate, from which the diversion occurs, remains at 6.35%.

OLR Bill Analysis**sHB 5433 (as amended by House "A")******AN ACT MAKING MINOR AND TECHNICAL CHANGES TO
DEPARTMENT OF CONSUMER PROTECTION STATUTES.*****SUMMARY:**

This bill makes various unrelated changes to the consumer protection statutes by:

1. eliminating a cause of action for recovering from the Real Estate Guaranty Fund;
2. eliminating a requirement that the Real Estate Commission automatically revoke a real estate broker's or salesperson's license when a judgment is entered against him or her;
3. allowing a coliseum concession permittee to sell beer in plastic or aluminum containers, rather than just in paper as required under current law;
4. specifying that pharmacist continuing education requirements do not apply the first year a pharmacist is licensed;
5. making permanent, within available appropriations, a DCP pilot program for electronic retail pricing;
6. eliminating all state regulation of kosher foods by repealing the (a) DCP commissioner's specific authority to enter premises to inspect kosher food and (b) criminal offense of fraudulently selling kosher food; and
7. allowing manufacturer permittees for a farm winery to sell and offer free samples of wine an hour earlier on Sundays, starting

at 10:00 a.m. instead of 11:00 a.m.

The bill also makes other minor, technical, and conforming changes.

*House Amendment "A" adds the farm winery provision.

EFFECTIVE DATE: July 1, 2016, except the farm winery provision is effective upon passage.

REAL ESTATE GUARANTY FUND

The bill removes "trickery" as a cause of action for a consumer to recover from the Real Estate Guaranty Fund. (The term is not defined in statute.)

By law, a consumer may still recover if a licensed real estate broker or salesperson or his or her unlicensed employee causes injury through certain fraudulent actions (e.g., embezzlement, false pretense, or misrepresentation). To collect from the fund, a consumer must have been awarded a court judgment that the broker, salesperson, or unlicensed employee lacks the funds to satisfy. Consumers must apply to DCP to receive compensation, which may be up to \$25,000 for any one real estate transaction or claim.

ELECTRONIC RETAIL PRICING PROGRAM

The bill establishes, within available appropriations, a permanent alternative electronic retail pricing system program based on a pilot program that ended in 2001. The program test audits alternative electronic retail pricing systems that maintain and display the item and unit price of consumer commodities.

By law, a consumer commodity is any food, drug, device, cosmetic, product, or commodity of any class, except prescription drugs, which is customarily produced for retail sale for individual consumption, personal care, or household purposes and is usually consumed or expended during use. It does not include alcoholic liquor or carbonated soft drink containers.

Retailer Requirements

Under the bill, the DCP commissioner selects one or more retailers to participate in the program. A participating retailer must conduct business in more than one store in the state and submit to the commissioner a written request to participate in the program and pay all costs associated with the test audit under the program.

The retailer must implement a system to be test audited that, at a minimum:

1. maintains the retailer's current item prices and unit prices for each product in an electronic database;
2. prints shelf tags that meet all applicable requirements for item and unit pricing; and
3. operates in such a way that price increases and decreases are immediately transmitted directly to the point of sale, but only if shelf tags are posted and the posting has been verified in the electronic database for price increases.

Audits

As under the pilot program, the commissioner may designate a private auditing organization to conduct such test audit and charge the cost of the audit to the selected retailer. During the audit, the store must be exempt from the universal product coding and electronic shelf labeling law and regulations, including the "get one free" law that generally allows consumers to receive a free item, under a certain price, if it scans at a higher price. The audit must not last longer than 12 months.

KOSHER FOOD REPEALER

The bill eliminates the DCP commissioner's or his agent's specific authority to enter certain premises to determine if the business is fraudulently selling kosher food. Such premises include (1) places where any meat or meat product is sold or offered for sale as kosher or (2) restaurants or other places where food being sold for consumption

is represented as being kosher.

The bill also eliminates the criminal offense of fraudulently selling kosher meat, meat products, and other foods. Among other things, a person is guilty of this offense if he or she, with intent to defraud, sells or exposes for sale any food product, including meat, and falsely represents that the product is kosher or has been prepared in accordance with orthodox Hebrew religious requirements. A person is also guilty of this offense if he or she sells both kosher and nonkosher food without having a sign indicating that such foods are being sold together. A violator may be fined up to \$100, imprisoned up to six months, or both.

BACKGROUND

Related Bill

sHB 5324 (File 583) as amended by House "A" and "B," favorably reported by the General Law and Finance, Revenue and Bonding committees, allows a farm winery permittee to sell and offer free samples of wine two hours earlier on Monday through Saturday, starting at 8:00 a.m. instead of 10:00 a.m.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 11 Nay 6 (03/11/2016)

Judiciary Committee

Joint Favorable

Yea 40 Nay 0 (04/11/2016)

Insurance and Real Estate Committee

Joint Favorable

Yea 12 Nay 2 (04/21/2016)